

Exhibit 10

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

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4 **BLACK LOVE RESISTS IN THE RUST, ET AL.,**
5 **INDIVIDUALLY AND ON BEHALF OF A CLASS OF**
6 **ALL OTHERS SIMILARLY SITUATED,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., ET AL.,**

10 Defendants.
11 -----

12 **EXAMINATION BEFORE TRIAL**

13 **OF MAYOR BYRON BROWN**

14 **APPEARING REMOTELY FROM**

15 **ERIE COUNTY, NEW YORK**

16
17 November 6th, 2023

18 At 9:00 a.m.

19 Pursuant to notice
20
21

22 REPORTED BY:

23 Rebecca L. DiBello, RPR, CSR(NY)

DEPAOLO CROSBY REPORTING SERVICES, INC.

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R E M O T E A P P E A R A N C E S

APPEARING FOR THE PLAINTIFFS, BLACK LOVE
RESISTS IN THE RUST, ET AL., INDIVIDUALLY AND
ON BEHALF OF A CLASS OF ALL OTHERS SIMILARLY
SITUATED:

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APPEARING FOR THE DEFENDANTS, CITY OF BUFFALO,
N.Y., et al.:

HODGSON RUSS LLP
BY: PETER SAHASRABUDE, ESQ.,
140 Pearl Street
Buffalo, New York 14202
(716) 848-1508

ALSO PRESENT:

National Center for Law
and Economic Justice
CLAUDIA WILNER, ESQ.
MAYA GOLDMAN, ESQ.
ANJANA MOLHOTRA, ESQ.
SHYENNE MEDINA, ESQ.

Covington & Burling, LLP
CHRISTINE NELSON, ESQ.

Center for Constitutional
Rights
MIKAILA HERNANDEZ, ESQ.

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—MAYOR BYRON BROWN—

1 agencies?

2 MR. SAHASRABUDHE: Form.

3 A. I have management responsibilities with
4 municipal agencies.

5 Q. When you say management authorities what do
6 you mean?

7 A. So ultimately the mayor is the chief executive
8 officer of the administration of City
9 government and I manage the work of the
10 commissioners that manage the various
11 departments of City government.

12 Q. Okay. Does that include the Buffalo Police
13 Department?

14 A. Yes, it does.

15 Q. Does it include the Buffalo Traffic Violations
16 Authority or BTVA?

17 A. Yes, it does.

18 Q. Does that include the Commission on Citizens
19 Rights and Community Relations?

20 A. Yes, it does.

21 Q. Does it include the Buffalo Municipal Housing
22 Authority Commission?

23 A. No, not directly. I appoint commissioners to

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1 the Buffalo Municipal Housing Authority.

2 Q. Okay. So for the BMHA you have the authority
3 to appoint commissioners, correct?

4 A. Yes, that's correct.

5 Q. But with respect to the other agencies you
6 just described, you have broader managerial
7 powers?

8 MR. SAHASRABUDHE: Form.

9 A. Yes. I have management authority over other
10 City departments.

11 Q. Okay. And in the case of the Buffalo Police
12 Department, your authority extends beyond
13 merely appointing commissioners?

14 MR. SAHASRABUDHE: Form.

15 A. Well, we work to set policy. I review
16 recommendations from the commissioners.

17 Q. And that includes the commissioner for the
18 Buffalo Police Department or BPD?

19 A. That's correct.

20 Q. Okay. And does that also include -- do you
21 also have the ability to review policies
22 related to the BTVA?

23 A. I do.

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1 Q. Okay. Now, we have been talking a bit about
2 the BTVA. When was it created?

3 A. I don't remember the exact date of creation as
4 we speak.

5 Q. If I said it began to administer tickets in
6 July of 2015, would that sound accurate to
7 you?

8 A. It could be accurate.

9 Q. What role did you have in the creation of the
10 BTVA, if any?

11 A. I participated in recommending the creation of
12 the agency.

13 Q. Who did you recommend the creation of the
14 agency to?

15 A. The City proposed the creation to the City
16 Council and to the state legislature.

17 Q. Was that at your recommendation?

18 A. Yes.

19 Q. Why did you recommend that the BTVA be
20 created?

21 A. We thought it was a more efficient way to
22 manage traffic violations in the City of
23 Buffalo. Other cities had similar agencies

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—MAYOR BYRON BROWN—

1 and we thought that that model would be more
2 efficient.

3 Q. And when you say efficient what do you mean?

4 A. I mean just in terms of knowing the number of
5 tickets that were written, being able to
6 determine how that process was managed and
7 removing a lot of the management and oversight
8 of that process from Albany.

9 Q. As part of your efforts to establish the BTVA
10 you did travel to Albany, correct?

11 A. I traveled to Albany periodically.

12 Q. And you spoke to lawmakers in Albany about the
13 need to create the BTVA?

14 A. Yes.

15 Q. Am I correct that prior to the creation of the
16 BTVA revenue for traffic tickets was sent to
17 state agencies and divided?

18 A. That's correct.

19 Q. And subsequent to the creation of the BTVA
20 ticket revenue from traffic tickets and
21 impounds goes directly to the City of Buffalo?

22 MR. SAHASRABUDHE: Form.

23 A. Could you repeat that?

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1 Q. Sure. I'll ask a different question. Am I
2 correct that since the creation of the BTVA
3 revenue from traffic tickets is no longer
4 divided with state agencies?

5 A. The distribution is greater to the City.

6 Q. And by greater what do you mean?

7 A. There's more revenue to the City.

8 Q. Okay. A significant increase in revenue?

9 MR. SAHASRABUDHE: Objection to form.

10 A. I don't know how significant it is.

11 Q. But since its creation the BTVA has generated
12 millions in revenue for the City of Buffalo?

13 MR. SAHASRABUDHE: Object to the form.

14 A. I don't know the answer to that.

15 Q. But you do prepare the City budget yearly?

16 A. Yes, I do.

17 MR. SAHASRABUDHE: Form.

18 Q. And that includes looking at proposed revenue
19 streams?

20 A. Yes, that does.

21 Q. Are you aware that the BTVA revenue lines has
22 been in the millions since 2015?

23 MR. SAHASRABUDHE: Form.

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1 A. Could you repeat that please.

2 Q. Sure. Are you aware that the revenue
3 allocation for the BTVA has been in excess of
4 a million since its creation?

5 A. That sounds accurate.

6 Q. Okay. Thank you.

7 So let's go back to talking about some
8 of your mayoral duties. Now, with respect to
9 the BPD, is it true you're able to make
10 appointments?

11 A. I appoint the commissioner of the Buffalo
12 Police Department.

13 Q. Do you require anyone else's approval for the
14 commissioner appointments?

15 A. Yes. All commissioners go through a
16 confirmation process with the City Council.

17 Q. And you have the authority to make the
18 recommendations for the appointment in the
19 first instance?

20 A. That is correct.

21 Q. Are you able to relieve appointees as well?

22 A. Yes, I am.

23 Q. And is cause required to relieve an appointee?

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MAYOR BYRON BROWN

1 A. No.

2 Q. So you're able to remove the BPD commissioners
3 at your discretion?

4 A. Yes.

5 Q. Are there any other BPD personnel who you
6 appoint?

7 A. No, there are not.

8 Q. Besides appointments, what authority do you
9 have with respect to the Buffalo Police
10 Department or BPD?

11 MR. SAHASRABUDHE: Object to the form.

12 A. Looking at the budget of the Department. If
13 the budget of the Department is included in
14 the general City budget, when there are
15 requests for equipment from the Department,
16 reviewing those and including those requests
17 in the City budget.

18 Q. Do you have any role in reviewing overtime
19 requests for the Department?

20 A. I do not directly review overtime requests of
21 the Department, but certainly our management
22 priority is to reduce overtime in every city
23 department.

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—MAYOR BYRON BROWN—

1 Q. And is there someone from -- to the extent
2 that the BPD does receive overtime year in and
3 year out, is there anyone from your office
4 involved in approving those requests?

5 A. That would be reviewed by the police
6 commissioner and the police commissioner's
7 management staff and there would be review by
8 the finance commissioner and the Department of
9 Finance.

10 Q. Okay. So the mayor's office is not involved
11 in administering overtime requests?

12 A. No.

13 Q. Do you have the ability to veto or disapprove
14 overtime requests by the Department?

15 A. I do not.

16 Q. Are you able to issue executive orders to the
17 Buffalo Police Department?

18 MR. SAHASRABUDHE: Form.

19 A. I could issue executive orders for the police
20 department.

21 Q. Okay. Are there any instances where you have?

22 MR. SAHASRABUDHE: Form.

23 A. Not that I recall at this time.

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—MAYOR BYRON BROWN—

1 Q. Okay. Mayor Brown, are you familiar with a
2 BPD unit that was called the Strike Force?

3 A. Yes, I am.

4 Q. Was that a major policy decision of the BPD,
5 the creation of the Strike Force?

6 A. Yes, it was. I think clearly the police
7 department was trying to respond to vehicle
8 and traffic complaints of residents and that
9 was the impetus for the establishment of that
10 unit.

11 Q. Your testimony today is that the impetus for
12 the establishment of the Strike Force was
13 traffic safety concerns?

14 MR. SAHASRABUDHE: Form.

15 Q. Please respond verbally.

16 MR. SAHASRABUDHE: He's thinking about
17 his response.

18 A. Yes. There have been major traffic safety
19 concerns in the City of Buffalo. Residents
20 very concerned about people going through stop
21 signs, going through traffic signals, speeding
22 in their neighborhoods, endangering children
23 and seniors and concerns about the playing of

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1 loud music by vehicles in neighborhoods.

2 Q. The Strike Force was created during your time
3 as mayor, correct?

4 A. Yes.

5 Q. How would you describe your involvement, if
6 any, in its creation?

7 A. I wasn't involved in the creation. It was a
8 recommendation of the police department to
9 address these concerns, primarily traffic
10 related, and the Strike Force was established
11 to address the concerns that residents had.

12 Q. And is your testimony today that the primary
13 mission of the Strike Force was attending to
14 traffic concerns?

15 MR. SAHASRABUDHE: Objection to form.

16 A. The mission of the Strike Force in its
17 creation was to deal with vehicle and traffic
18 concerns related to speeding, dangerous
19 driving, going through stop signs, traffic
20 signals, speeding through neighborhoods,
21 speeding past schools, yes.

22 Q. Okay. And I remind you, Mayor, that you're
23 under oath today.

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1 does build on that activity where the primary
2 purpose of checkpoints was traffic safety.

3 Q. Have you ever seen a document in writing that
4 identifies traffic safety as the primary
5 purpose of the BPD's Strike Force checkpoints?

6 A. Not that I can recall.

7 Q. I'd like to go ahead and direct you to a
8 document that was produced in discovery. I
9 guess this will be Exhibit 6 if I'm keeping
10 track. COB 22549.

11 I'm going to pull it on my screen right
12 now. It's two pages. I'm making the first
13 page a little larger. Let me know when you
14 would like me to scroll, Mayor Brown.

15 A. I can see the top of the document so you can
16 scroll now.

17 Q. Okay. Well, before we turn from the first
18 page, do you see that this document is an
19 email from Commissioner Daniel Derenda to you
20 copying then Deputy Police Commissioner
21 Byron C. Lockwood?

22 A. I do see that, that this document is from
23 Commissioner Derenda and copies then First

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1 interdiction. The police commissioner and his
2 management team recommended initially that
3 based on the large number of complaints that
4 we were getting from residents about traffic
5 safety, vehicle safety, that this was a
6 strategy that could be employed and I think
7 secondarily once this strategy was employed it
8 was found that they were identifying people
9 who were driving in vehicles with illegal guns
10 visible, with drugs visible and as a secondary
11 purpose this could keep areas of the City
12 safer.

13 Q. Is your testimony that Daniel Derenda informed
14 you that traffic safety data was going to be
15 used to formulate checkpoint locations?

16 MR. SAHASRABUDHE: Objection to form.

17 A. It is my testimony that there were a large
18 number of complaints from residents about
19 speed, running through red lights, running
20 through traffic signals, speeding in
21 neighborhoods, speeding past schools and
22 endangering the community. Initially traffic
23 interdiction, traffic checkpoints, were

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1 established to address those issues and as a
2 secondary purpose it was found that caught in
3 those traffic checkpoints were people with
4 criminal backgrounds, with illegal guns, with
5 illegal drugs that were threatening the safety
6 of the community and that that was also a
7 major concern of residents of the City of
8 Buffalo.

9 Q. And what is the basis for your testimony that
10 checkpoints were developed -- Strike Force
11 checkpoints were developed with traffic safety
12 concerns as the primary objective?

13 MR. SAHASRABUDHE: Object to the form.

14 A. I previously mentioned in meeting with the
15 commissioner and the commissioner's management
16 team that as we wanted to be responsive to
17 complaints in the community about traffic
18 safety, that this was a strategy that was
19 going to be employed and employing this
20 strategy that did address speeding in
21 neighborhoods, did address loud music being
22 played in neighborhoods, people running stop
23 signs, running through traffic signals, that

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1 the secondary purpose that was identified is
2 there were also people driving in vehicles
3 with guns, with drugs, people who had criminal
4 records that were endangering the safety of
5 the community and there was a high priority in
6 the community for people to want to be safe.

7 Q. And when you refer to conversations with the
8 commissioner were you referring to
9 Commissioner Daniel Derenda?

10 A. Yes. I was referring to Commissioner Derenda.

11 Q. Are you aware that Daniel Derenda has given
12 sworn testimony in this case?

13 A. I am aware of that.

14 Q. Have you reviewed that testimony?

15 A. I have not reviewed the commissioner's
16 testimony.

17 Q. Are you aware that Commissioner Derenda
18 indicated that he never relied on traffic
19 safety data when developing a checkpoint
20 location?

21 MR. SAHASRABUDHE: Objection to form.

22 A. I am not aware of that, but I think traffic
23 safety data was a part of it and I think

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—MAYOR BYRON BROWN—

1 speeding past the schools where their children
2 went, so many direct conversations with
3 residents of the community about that.

4 Q. Isn't it true that you had direct
5 conversations with community members about
6 racial bias in policing?

7 MR. SAHASRABUDHE: Form.

8 A. It is true that I speak to residents of the
9 community about a lot of different things.
10 There were not as many concerns about racial
11 bias in policing as there were concerns about
12 community safety and the police department
13 being active, proactive in addressing the
14 community's safety concerns.

15 Q. So your testimony today is that there was more
16 of an interest in there being checkpoints in
17 East Side communities than there were concerns
18 about racial bias by police?

19 A. My testimony today is there were dramatically
20 more concerns about community safety in East
21 Buffalo than there were about racial bias in
22 policing, dramatically.

23 Q. Nonetheless -- and I'm trying to confirm what

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—MAYOR BYRON BROWN—

1 prior map indicating that checkpoints were
2 predominantly on the East Side of Buffalo?

3 MR. SAHASRABUDHE: Form.

4 A. This map does look consistent with the other
5 map that you just showed me.

6 Q. Okay. Now, Mayor Brown, going back to Brown
7 Exhibit 16, you forwarded the article in the
8 Daily Public to Daniel Derenda, Byron Lockwood
9 and others, correct?

10 A. Yes, that's correct.

11 Q. Why did you forward the article to this group
12 of BPD officials?

13 MR. SAHASRABUDHE: Object to the form.

14 A. My view is that I wanted to make sure that
15 what we were doing was being done properly. I
16 wanted to see if the article was accurate and
17 to get more information.

18 Q. Did you request any information from the BPD
19 officials that you contacted?

20 A. I was briefed by BPD officials.

21 Q. What did they brief you on?

22 A. Again, the briefing was that there was no
23 targeting of the East Side, that our traffic

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—MAYOR BYRON BROWN—

1 safety priorities were being followed and that
2 the secondary mission of the Strike Force for
3 community safety was overlaying with that.
4 That was the summary of the briefing.

5 Q. Got it. And was that briefing communicated
6 verbally to you?

7 A. Yes, it was.

8 Q. Was there anything that you received in
9 writing following your discussion about the
10 checkpoints?

11 A. I'm sure there was data at the time.

12 Q. Have you ever seen data disputing the
13 conclusions of this report that checkpoints
14 were predominantly on the East Side?

15 MR. SAHASRABUDHE: Objection to form.

16 A. I have never seen data disputing that the
17 checkpoints were predominantly on the East
18 Side. I do reject the motives that were
19 presented in that article and presented by
20 others in terms of the motives of what was
21 being done.

22 Q. So why were the checkpoints that the BPD
23 operated prior to 2017 concentrated on the

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
5 Public, in and for the County of Erie, State of
6 New York, do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken pursuant
12 to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13 I further certify that I am neither counsel
14 for nor related to any party to said action,
15 nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
18 19th day of November, 2023.

19 

20 -----
21 Rebecca Lynne DiBello, CSR (NY)
22 Notary Public - State of New York
23 No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2027

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